

9/27/04

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF GENESEE

NU-TECH PLASTICS ENGINEERING, INC.,

Plaintiff,

v

Case No. 02-075335-CK

Hon. Robert M. Ransom

GENERAL MOTORS CORPORATION,
a Delaware Corporation, and DELPHI
AUTOMOTIVE SYSTEMS USA, L.L.C., a
Delaware Limited Liability Corporation, d/b/a
DELPHI AUTOMOTIVE SYSTEMS, L.L.C.,

Defendants.

SCHWARTZ LAW FIRM, P.C.

By: Jay A. Schwartz (P45268)

Deborah E. Fordree (P49054)

Attorney for Plaintiff

37887 West Twelve Mile Road, Suite A

Farmington Hills, Michigan 48331

(248) 553-9400

LIPPERT, HUMPHREYS, CAMPBELL,

DUST & HUMPHREYS, P.C.

By: A. T. Lippert, Jr. (P16714)

Attorney for Defendants

4800 Fashion Square Boulevard, Suite 410

Saginaw, Michigan 48064-2604

(989) 792-2552

PLAINTIFF'S THIRD SET OF
INTERROGATORIES DIRECTED TO DEFENDANTS

NOW COMES Plaintiff, NU-TECH PLASTICS ENGINEERING, INC., by and through its attorney, SCHWARTZ LAW FIRM, P.C., and for Plaintiff's Third Set of Interrogatories Directed to Defendants, GENERAL MOTORS CORPORATION, and DELPHI AUTOMOTIVE SYSTEMS USA, L.L.C. d/b/a DELPHI AUTOMOTIVE SYSTEMS, L.L.C., states as follows:

INSTRUCTIONS

1. Said interrogatories and document requests are to be answered separately and fully in writing within (28) twenty-eight days in accordance with MCR 2.309(B)(4), and MCR 2.310.

2. The answer should be signed and sworn to by the person making them.

3. The answers should disclose all information known by or available to Defendants or others who are in possession of or who may have obtained information for or on behalf of Defendants.

4. If Defendants have no personal knowledge of the facts requested, they shall answer on information and belief, and designate the source of their information. If Defendants cannot answer any interrogatory in whole or in part, they shall answer to the extent possible and explain why they are unable to answer further.

5. Pursuant to MCR 2.309(B)(2), please repeat each interrogatory and/or sub-question immediately preceding the answer thereto.

6. These interrogatories shall be deemed continuing, and supplemental answers shall be required upon receipt thereof, if the person answering the interrogatories and requests directly, or indirectly, obtains further or different information.

INTERROGATORIES

1. List the number of 25160694 parts used by month from 11/1/97 to date.

ANSWER:

2. What is the anticipated future usage by year of 25160694 parts?

ANSWER:

3. What is the number of 25180510 parts used from its inception to date?

ANSWER:

4. What is the anticipated future usage of 25180510 parts by year?

ANSWER:

5. What is the number of weeks per year plants run that use parts 25160694?

ANSWER:

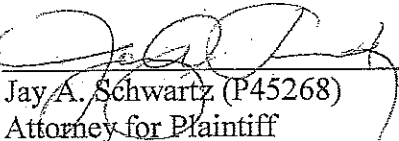
6. What is the number of weeks per year plants run that use parts 25180510?

ANSWER:

7. What is the price paid for 25180510 parts?

ANSWER:

SCHWARTZ LAW FIRM

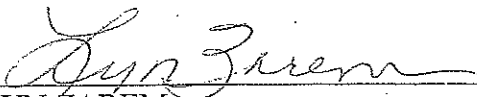
By: 
Jay A. Schwartz (P45268)
Attorney for Plaintiff
37887 West Twelve Mile Road, Suite A
Farmington Hills, Michigan 48331
(248) 553-9400

Dated: September 24, 2004

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing instrument was served upon the attorney of record to the above cause by mailing the same to him at his respective address as disclosed by the pleadings of record herein with postage fully prepaid thereon on the 24th day of September, 2004, and by faxing to (989) 792-3881.

I declare under penalty of perjury that the statement above is true to the best of my knowledge, information and belief.



LYN ZAREM

Form, call (517) 337-1211
Information Management, Inc.
Approved, SCAO

Original - Return
1st copy - Witness

2nd copy - File
3rd copy - Extra

STATE OF MICHIGAN

JUDICIAL DISTRICT
JUDICIAL CIRCUIT
COUNTY PROBATE

SUBPOENA
Order to Appear and/or Produce
DUCES TECUM

CASE NO.

02-075335-CK

Court address

Court telephone no.

Police Report No. (if applicable)

Genesee County Courthouse, 900 S. Saginaw St., Flint, MI 48502

Plaintiff(s)/Petitioner(s)

☐ People of the State of Michigan
☒ Nu-Tech Plastics Engineering, Inc.

Defendant(s)/Respondent(s)

General Motors Corporation, a
Delaware Corporation, and
Delphi Automotive Systems USA, L.L.C.,
a Delaware Limited Liability Corporation

v

☒ Civil ☐ Criminal

Charge

☐ Probate In the matter of

In the Name of the People of the State of Michigan. TO: John L. Daig, C.P.A.
G-4067 Van Slyke Rd., P.O. Box 7607
Flint, MI 48507

If you require special accommodations to use the court because of disabilities, please contact the court immediately to make arrangements.

YOU ARE ORDERED:

☒ 1. to appear personally at the time and place stated below: You may be required to appear from time to time and day to day until excused.

☐ The court address above ☐ Other: G-4067 Van Slyke Rd., Flint, MI 48507

Day Tuesday Date October 12, 2004 Time 9:00 a.m.

☐ 2. Testify at trial / examination / hearing.

☒ 3. Produce/permit inspection or copying of the following items: Produce all financial records and reports
prepared for and pertaining to Nu-Tech Plastics Engineering, Inc. for the years
1995-2002.

☐ 4. Testify as to your assets, and bring with you the items listed in line 3 above.

☒ 5. Testify at deposition.

☐ 6. MCL 600.6104(2), 600.6116, or 600.6119 prohibition against transferring or disposing of property is attached.

☐ 7. Other:

<input checked="" type="checkbox"/> 8. Person requesting subpoena		Telephone no.
A.T. Lippert, Jr.		(989) 792-2552
Address		
4800 Fashion Square Blvd., Suite 410		
City	State	Zip
Saginaw, MI		48604

NOTE: If requesting a debtor's examination under MCL 600.6110, or an injunction under item 6, this subpoena must be issued by a judge. For a debtor examination, the affidavit of debtor examination on the other side of this form must also be completed. Debtor's assets can also be discovered through MCR 2.305 without the need for an affidavit of debtor examination or issuance of this subpoena by a judge.

FAILURE TO OBEY THE COMMANDS OF THE SUBPOENA OR APPEAR AT THE STATED TIME AND PLACE MAY SUBJECT YOU TO PENALTY FOR CONTEMPT OF COURT.

September 30, 2004

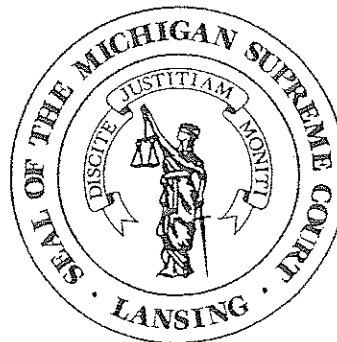
Date

Judge/Clerk/Attorney

A.T. Lippert, Jr. (Pl6714)

Bar no.

Court use only
☐ Served ☐ Not served



LIPPERT, HUMPHREYS, CAMPBELL, DUST & HUMPHREYS, P.C.

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JOHN D.L. HUMPHREYS

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FAX (989) 792-3881

E-MAIL: lawyers@lhc-law.com

February 16, 2005

Jay A. Schwartz
Schwartz Law Firm, P.C.
37887 W. 12 Mile Rd., Suite A
Farmington Hills, MI 48331

RE: Nu-Tech v. Delphi, et al.

Dear Mr. Schwartz:

I have been advised that there are no records showing the production, if any, of the reservoir part 0694, at the Delphi facility in Flint, Michigan. If the parts were produced by Delphi, the quantity would have been determined by orders placed by Delphi customers and shipped pursuant to those orders. Those records, if any, cannot be located.

If you have any success in locating Nu-Tech's records I would like to review the records. We can arrange for this to be done wherever the records might be stored. Please advise me regarding this matter.

Also, please provide me with dates when your expert can be available for a deposition.

Very truly yours,
LIPPERT, HUMPHREYS, CAMPBELL,
DUST & HUMPHREYS, P.C.



A.T. LIPPERT, JR.

ATL:kkp

FEB 18 2005

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A PROFESSIONAL CORPORATION

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BURTON H. SCHWARTZ
JAY A. SCHWARTZ
JONATHAN D. SWEIK

January 28, 2005

VIA FACSIMILE ONLY

A. T. Lippert, Jr., Esq.
Suite 410A
4800 Fashion Square Boulevard
Saginaw, Michigan 48064-2604

Re: *Nu-Tech Plastics Engineering, Inc. v General Motors, et al*
Case No. 02-075335-CK

Dear Mr. Lippert:

Thank you for your January 21st letter. I understand your position regarding part 0510. With respect to part 0694, I do not believe your client has provided the production runs for the part from the date your client took back each of the tools and the assignment to Rapid Technologies.

Very truly yours,

SCHWARTZ LAW FIRM

By: 
JAY A. SCHWARTZ

JAS/cl

cc: Nu-Tech Plastics Engineering, Inc.

LIPPERT, HUMPHREYS, CAMPBELL, DUST & HUMPHREYS, P.C.

ATTORNEYS AND COUNSELORS AT LAW

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B.J. HUMPHREYS

A.T. LIPPERT, JR.

GARY R. CAMPBELL

TOBIN H. DUST

JOHN D.L. HUMPHREYS

January 21, 2005

Jay A. Schwartz
Schwartz Law Firm, P.C.
37887 W. 12 Mile Rd., Suite A
Farmington Hills, MI 48331


RE: Nu-Tech v. Delphi, et al.

Dear Jay:

I have your letter dated January 20, 2005. I believe that you have all that you are going to get regarding part 0510. The purchase order was issued for what was essentially a special order. The order was filled by Nu-tech and there was no following production. Mr. Mailey has confirmed that fact with me. Mr. Cooper appears to confirm that fact in his deposition testimony.

The purchase order for part 0694 was assigned to Rapid Technologies. I am still attempting to find what Rapid Technologies produced, if anything.

Very truly yours,
LIPPERT, HUMPHREYS, CAMPBELL,
DUST & HUMPHREYS, P.C.


A.T. LIPPERT, JR.

ATL:kkp

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JAY A. SCHWARTZ
JONATHAN D. SWEIK

January 20, 2005

VIA FACSIMILE ONLY

A. T. Lippert, Jr., Esq.
Suite 410A
4800 Fashion Square Boulevard
Saginaw, Michigan 48064-2604

Re: *Nu-Tech Plastics Engineering, Inc. v General Motors, et al*
Case No. 02-075335-CK

Dear Tom:


As a follow up to our conversations, if your client can not produce run information for the two parts other than what has been produced to date, please have them verify this so my damage expert can complete his analysis.

If you should have any questions, please do not hesitate to phone.

Very truly yours,

SCHWARTZ LAW FIRM

By:


JAY A. SCHWARTZ

JAS/wlj

LIPPERT, HUMPHREYS, CAMPBELL, DUST & HUMPHREYS, P.C.

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E-MAIL: lawyers@lhc-law.com

January 11, 2005

Jay A. Schwartz
Schwartz Law Firm, P.C.
37887 W. 12 Mile Rd., Suite A
Farmington Hills, MI 48331

RE: Nu-Tech v. Delphi, et al.

Dear Mr. Schwartz:

I am enclosing copies of spreadsheets that detail the parts shipped by Nu-Tech to Delphi in invoices paid by Delphi to Nu-Tech. Nu-Tech is identified by name on the documents and also by its DUN number. The entries, which pertain to parts 0694, are shown under the heading of "Information" and identifiable as PRON 580000B.

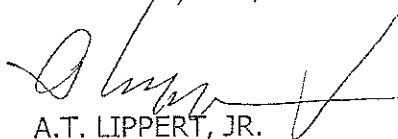
There have been no release documents located for parts that may have been manufactured by Rapid Technologies after its take-over of the business from Nu-Tech. The search is continuing.

If part 0694 was manufactured by Delphi there are no records of that use.

Part 0510 was a limited production order. The order specifically provides for a total of 56,000 parts if needed. The shipments were to be made in July, August, and September of 1999. As I understand from Mr. Cooper's testimony, he saw this order as a short-term order for a limited purpose and there was no claim relating to this order. That is also Mr. Mailey's view of the order.

If I obtain additional information, it will be forwarded to you immediately.

Very truly yours,
LIPPERT, HUMPHREYS, CAMPBELL,
DUST & HUMPHREYS, P.C.



A.T. LIPPERT, JR.

ATL:kkp

Enclosures

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CARMEN MOYER
JONATHAN D. SWEIK
BRIAN BIRKS

January 3, 2005

VIA FACSIMILE ONLY

A. T. Lippert, Jr., Esq.
Suite 410A
4800 Fashion Square Boulevard
Saginaw, Michigan 48064-2604

Re: *Nu-Tech Plastics Engineering, Inc. v General Motors, et al*
Case No. 02-075335-CK

Dear Tom:

I hope you had a Happy New Year.

There are two issues regarding the January 12, 2005 facilitation. First, my client's expert Gary Leeman needs the production run information we requested from your clients some time ago to complete his damage analysis. Leeman's conclusions are necessary to have meaningful (at least to my client) settlement discussions at facilitation. Do you want to push back facilitation until your clients produce the information? While I'd prefer not to file a motion, I am going to have no alternative unless you clients will sign a Stipulated Order to produce this information during the next few weeks. Second, I now have an evidentiary hearing January 12, 2005 in the morning in Federal Court in Detroit. It should last less than an hour. If you do not want to push back facilitation, could we move the starting time back to 2:00 p.m. if Cliff Hart is available?

I will be in the office most of the day today. Please call me if you have time to discuss these issues.

Very truly yours,

SCHWARTZ LAW FIRM

By: Jay A. Schwartz
JAY A. SCHWARTZ

JAS/wlj

cc: Nu-Tech Plastics Engineering, Inc.

SCHWARTZ LAW FIRM

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CARMEN MOYER
JONATHAN D. SWEIK
BRIAN BIRKS

December 10, 2004

A. T. Lippert, Jr., Esq.
Suite 410A
4800 Fashion Square Boulevard
Saginaw, Michigan 48064-2604

Re: *Nu-Tech Plastics Engineering, Inc. v General Motors, et al*
Case No. 02-075335-CK

Dear Mr. Lippert:

I have told my expert, Gary Leeman, to contact Keith Francis at BBK to arrange a time to inspect and arrange to copy any documents he needs for his analysis. I will not be attending. If you would prefer to be kept in the loop, please let me assistant Lyn know and I'll make sure Leeman goes through you when scheduling this.

Very truly yours,

SCHWARTZ LAW FIRM

By:

JAY A. SCHWARTZ

JAS/cl

cc: Nu-Tech Plastics Engineering, Inc.

SCHWARTZ LAW FIRM

A PROFESSIONAL CORPORATION

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JONATHAN D. SWEIK
BRIAN BIRKS

December 13, 2004

Gary Leeman, C.P.A.
Suite 100
39300 West Twelve Mile Road
Farmington Hills, Michigan 48331

Re: *Nu-Tech Plastics Engineering, Inc. v General Motors, et al*
Case No. 02-075335-CK

Dear Mr. Leeman:

The BBK records are in the possession of Keith Francis at BBK's offices, 300 Galleria Officentre, Suite 103, Southfield, Michigan, 48034. There are three boxes. They are available for your inspection. Please contact Mr. Francis directly to arrange the inspection and subsequent copying of the information you need for your analysis.

If you have any questions, please do not hesitate to phone.

Very truly yours,

SCHWARTZ LAW FIRM

By: 

JAY A. SCHWARTZ

JAS/lz

cc: Nu-Tech Plastics Engineering, Inc.

SCHWARTZ LAW FIRM

A PROFESSIONAL CORPORATION

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DEBORAH E. FORDREE
CARMEN MOYER
JONATHAN D. SWEIK
BRIAN BIRKS

November 29, 2004

VIA FACSIMILE ONLY

A. T. Lippert, Jr., Esq.
Suite 410A
4800 Fashion Square Boulevard
Saginaw, Michigan 48064-2604

Re: *Nu-Tech Plastics Engineering, Inc. v General Motors, et al*
Case No. 02-075335-CK

Dear Mr. Lippert:

Thank you for your November 19, 2004 fax. As to Part #25160694, your client omitted a substantial period of time (February 1999 – August 2002). Please provide that information, as well as the production information for Part #25180510.

I am also in receipt of the proposed Stipulated Order to Amend we previously discussed. Please forward me a copy of the proposed amended pleading that you intend on filing.

Very truly yours,

SCHWARTZ LAW FIRM

By: _____

JAY A. SCHWARTZ

JAS/wlj

Coogan, Sr.

SCHWARTZ LAW FIRM

A PROFESSIONAL CORPORATION

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JONATHAN D. SWEIK
BRIAN BIRKS

September 24, 2004

A. T. Lippert, Jr., Esq.
Suite 410A
4800 Fashion Square Boulevard
Saginaw, Michigan 48064-2604

**FACSIMILE AND
FIRST CLASS MAIL**

Re: *Nu-Tech Plastics Engineering, Inc. v General Motors, et al*
Case No. 02-075335-CK

Dear Mr. Lippert:

Enclosed is the remaining information my damage expert, Gary Leeman, needs prior to his discovery deposition. And I know you will not be able to finalize your damage expert until after Leeman's deposition. Therefore, since we are both under the gun for time, your prompt reply to these requests will assist us both.

Very truly yours,

SCHWARTZ LAW FIRM

By: 

JAY A. SCHWARTZ

JAS/lz

Enclosure

cc: Nu-Tech Plastics Engineering, Inc. (w/enclosure)